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REP. JOHN BRYANT, Chairman

(512) 475-6011

HOUSE STUDY GROUP special legislative report

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SPECIAL SESSIONS OF THE LEGISLATURE

The Second Called Session of the 65th Legislature will convene Monday, July 10. It must adjourn by midnight, August 9. This report explains the procedures for a special session, and is an update of a similar report issued last summer.

John Bryant

John Bryant
Chairman

The Texas Constitution provides that the legislature may meet in special sessions at the call of the governor. There appear to be no statutory provisions regarding special sessions.

Only the governor may call the legislature into special session. He may do so at any time, and is not required to give any advance notice of such a proclamation. Each special session is limited to thirty days duration (though the governor could call back-to-back sessions).

The governor's proclamation calling a special session must set forth "specifically the purpose for which the Legislature is convened." However, the governor does not have to state the details of legislation in the proclamation. He must only present in general the subjects for legislative consideration. A governor's proclamation in the late 1800s called a special session to reduce taxes "so far as it may be found consistent with the support of an efficient state government." The Texas Supreme Court found that the proclamation embraced "the whole subject of taxation"--including raising taxes. The legislature may not consider subjects other than those contained in the call or submitted to them during the course of the special session by the governor. The governor's power of veto enables him to enforce this constitutional restriction. A point of order may be raised against considering any bill on a subject not in the proclamation. However, if the legislature passes such a bill and if the governor chooses to sign it, it is a valid law.

House rules also speak to special sessions. Rule 14, Sec. 8 of the House Rules of the 65th Legislature states: "The subject matter of simple and concurrent resolutions does not have to be submitted by the governor in a called session before they can be considered." Up until adoption of a constitutional amendment in 1972, special sessions could not pass resolutions for constitutional amendments. But now "The Legislature, at any regular session, or at any special session when the matter is included within the purposes for which the session is convened, may propose amendments revising the Constitution..."

Generally speaking, the "time rules" which date from the beginning of a session are moot during a special session; those which date from the end are still valid. For example, the 60-day limit on the introduction of bills could not apply during a 30-day called session. However, the 72, 48, and 24 hours-before-final adjournment rules still apply. "Final adjournment" refers only to the 30th day of a special session. (No bills may be considered on second reading within the last 72 hours; no bills may be considered out of their regular order within the last 48 hours; only conference committee reports or concurrence in Senate amendments may be considered within the last 24 hours. And during the last five calendar days of a special session--except Sunday--all speeches are limited to 10 minutes and shall not be extended.)

The last special session convened July 11, 1977, to consider funding for public education. The governor later expanded the proclamation to include legislation pertaining to regulation of nursing homes, an offshore deepwater port, a flood insurance program, and bond problems for agencies abolished under Sunset.

The session began in much the same manner as a regular session. The House passed two resolutions: one establishing a committee to notify the governor and the Senate that the House was ready to do business, and the other for a joint session to hear the governor's message.

Another simple resolution was also adopted by the House: it voiced House approval of the legislative districts drawn in a 1976 court order for Fort Worth.

A concurrent resolution also set the rules and procedures for removal of a Supreme Court Justice.

About 25 bills were introduced during the session; six passed. One bill passed and was signed into law, though it was not included in the governor's proclamation. Six House Joint Resolutions were introduced; none passed. Twenty-two concurrent resolutions were introduced; 15 passed. Twenty-two simple resolutions were introduced; 15 passed.

The session adjourned July 21, 1977--ten days after it convened.

The 1978 special session

Perhaps the most intriguing change in the coming special session is that there will be no voting machine. A new machine is due to be installed this fall. Meanwhile, the old one has been torn out. The special session will have to vote by voice and roll call. "Verification" of voting machine records will not be necessary in the special session, since the votes will be by roll call to begin with. Roll call votes will essentially be the same as verification votes.

Not every decision, of course, will require a roll call. Voice votes will probably be common. But, should you wish to have a voice vote changed to a roll call, the Constitution and the rules allow such a motion. The Constitution states that "... the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals." Either of two procedures may be followed in requesting a roll call vote. The three members may call for a record vote from the floor during a voice vote. Or, during debate on a motion, members could take a slip of paper to the speaker's desk with the names of three members requesting a roll call. A separate request would have to be made for each roll call vote that the members desire. But Rule 9, Section 8 states that such a motion cannot be made after the results of the vote have been announced by the speaker.

The rules establish that roll call votes will be called alphabetically by surname.

As in a regular session a 4/5 vote is needed to suspend the requirement that bills be read on three separate days.

Since we are still in the lifespan of the 65th Legislature, the special session will not need to adopt new rules or housekeeping measures or establish new committees. The House will operate under the rules and Housekeeping Resolution passed by the 65th Regular

Session. Such rules can be amended. A simple resolution to amend the rules would be sent automatically to the Committee on Rules. It must be printed and distributed to each member at least 48 hours in advance of consideration. A majority vote is require to pass an amendment to the rules.

Bills may be prefiled within 30 days prior to a special session, and may be introduced at any time during the session.

Members will receive the same per diem and travel expenses as when the legislature is in regular session.

Finally, there is the matter of gubernatorial appointments that must be confirmed by the Senate. The governor must submit any appointments he has made for consideration by the Senate within the first 10 days of a legislative session. Those appointments will be considered by the Senate Nominations Committee.